



February 25, 2009

US Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
E-mail: antitrust.atr@usdoj.gov

Re: Opposition to Ticketmaster/Live Nation Merger

To whom it may concern:

We are writing to express our opposition to the proposed merger of Ticketmaster and Live Nation.

Knowledge Ecology International (KEI) is a non-profit public interest organization, supporting work carried out earlier by the Consumer Project on Technology (CPTech), an organization that has in the past participated in a number of merger reviews, including those involving legal publishing, retail distribution, and media concentration and telecommunications regulation.

Information about KEI is available on the Internet in this website: <http://www.keionline.org>.

KEI is opposed to the merger between Ticketmaster and Live Nation.

Ticketmaster is currently the dominant firm that consumers use to book and purchase tickets to many concerts, theatrical productions, art exhibits, sports and other live events, having acquired several actual and potential competitors. It has been estimated that Ticketmaster controls 70% to 80% of all online concert ticket sales in the United States.

Live Nation is the largest concert promoter in the United States. Both Ticketmaster and Live Nation have investments in a number of related businesses that create some conflicts of interests, and also position both companies as competitors or potential competitors against each other in their core businesses.

KEI's primary concern is the impact of the proposed merger on the public that attends such live performances, and the artists that provide performances. We believe greater concentration of ownership in the ticketing and promotion area will harm both the public and the performers.

As noted by Senator Charles Schumer statement at a February 24, 2009 hearing of the Senate Antitrust Subcommittee, "Live Nation has a lock on its side of the market. Think of what this merger would mean if they put both these companies under the same roof. It would combine the

largest ticket seller in the world with the largest event producer.”

The Department of Justice should take notice of the countless complaints against Ticketmaster by both the public and performers, including but not limited to high mark-up fees and the recent cases where Ticketmaster has used its position to charge higher prices for tickets in both the primary and the secondary market than artists have supported.¹

The business models used by Live Nation are complex and changing, and involve efforts by Live Nation to participate as equity partners in the performances, recordings and merchandise sales of performing artists. If there is a merger of Ticketmaster and Live Nation, the pressures on artists to alienate ownership of the creative works will be increased, and they will be more vulnerable in their business dealings.

Artists often seek to develop a longer term relationships with their public, and many are willing to take steps to protect the public from excessive fees for live events. This merger will undermine and discourage such pro-consumer actions.

One specific risk to the public is that a Live Nation/Ticketmaster merger would change the primary ticketing system and so that consumers would be required to bid against each other for tickets. The increased monopoly power would make it difficult for performers to reject such proposals.

KEI also has serious concerns over personal privacy. Ticketmaster's standard contract of adhesion regarding the uses of information obtain when selling tickets is already considered abusive. The combination of Ticketmaster and Live Nation would make matters worse.

KEI is also concerned that the merger will harm many smaller businesses that are important to both artists and the public. For example, Seth Hurwitz, co-owner of I.M.P. Productions and the 9:30 Club in Washington, D.C., stated at the Senate hearing that “If this merger is allowed to happen, my biggest competitor will have access to all my records ... and they can control which shows are promoted and much more.”

The public values the existence of diverse and independent venues. By allowing the creation of a giant ticketing and concert promoting monopoly, the Administration will be making the United States less open to creativity and will lower the quality of life for people living in the United States.

For all of these reasons, KEI asks the DOJ Antitrust Division to block the proposed merger.

¹ Such as the recent scandal involving the rock star Bruce Springsteen, and his fans who went to Ticketmaster's website to purchase tickets to his concerts in New Jersey but were redirected to TicketsNow.com (owned by Ticketmaster) and were offered tickets at enormous markups. While Ticketmaster entered into a settlement of the dispute on Monday, and agreed to pay the state of New Jersey \$350,000, and promised to compensate about 2,200 consumers, this illustrates the risks of concentration, conflicts of interest, and the questionable ethical values of the management of Ticketmaster.

Respectfully submitted,

Manon Ress

Director, Information Society Projects

Knowledge Ecology International

cc: John Read, USDOJ, Aaron Hoag, USDOJ.